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UNCLAS GUATEMALA 002365

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E.O. 12958: N/A

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SUBJECT: GUATEMALAN MILITARY COOPERATING WITH INVESTIGATION  
OF MILITARY FINANCES DURING PREVIOUS GOVERNMENT

1. On September 10, the Guatemalan Defense Ministry complied with a civilian court order and released to government investigators the military financial records from the 2001-2003 calendar years. The investigation is focused on allegations of mishandling approximately \$115 million in military funds during these three years.

2. The release of documents was delayed by the Guatemalan Defense Minister's solicitation of an opinion from the Attorney General as to the legality of such a release, given that the documents in question had customarily been labeled as state secrets. Although some media reports had sought to portray the Defense Minister's earlier action as an example of military obstructionism, the Defense Minister told us and others that he had no objections to the request but was only seeking to protect himself and the military from legal liability.

3. Illustrating that the Defense Minister's concerns had some validity, six retired senior officers (former defense ministers and former military financial chiefs) filed an injunction to prevent release of the documents on secrecy grounds. The injunction was rejected but did add to the delay in document release.

4. Article 30 of the Guatemalan Constitution permits the GOG to classify any military or diplomatic information affecting national security. The military had previously used a broad interpretation of this provision to withhold all budget documents from public scrutiny. Under the Berger Administration, the military has made great strides toward budget transparency. By the end of next year, the military budget should be virtually transparent (per pledges by President Berger and Defense Minister Mendez), as well as greatly reduced from recent years.

5. Comment: One of the principal avenues of attack in the Berger Administration's investigation of corruption during the Portillo Administration is an examination of the defense budget, which was reputedly the source of serious acts of corruption that also damaged the stability and reputation of the Guatemalan military. This particular document release is only one element of this investigation, which is also reportedly targeting specific expenditures by the now defunct Presidential Military Staff (EMP). The current military leadership appears to be fully cooperating with the investigation of wrongdoing that occurred under prior military leaders.  
HAMILTON